

**REMARKS**

Claims 13 and 15 have been amended to correct informalities contained therein. As such, the amendment to the claims do not present new matter and do not raise new issues that would require further consideration and/or search. Accordingly, entrance of the amendments to the claims is respectfully requested. Claims 1-37 are pending in the case. Further examination and reconsideration of pending claims 1-37 are hereby respectfully requested.

**Time for Reply to the Final Rejection**

A Final Office Action in the present case was mailed on July 10, 2006. Therefore, the last day of "2 months of the date of the final Office action" is September 10, 2006, which fell on a Sunday. A response to the Final Office Action was filed in the present case by Applicants on September 11, 2006. Therefore, since the last day of "2 months of the date of the final Office action" fell on a Sunday, and a reply was filed by Applicants in the present case on the next succeeding day which is not a Saturday, Sunday, or a Federal holiday, pursuant to 37 CFR 1.7(a), the reply was filed within the 2 month period, and the shortened statutory period for reply expires 3 months from the date of the final rejection or on the mailing date of the advisory action, whichever is later. MPEP 706.07(f)(A). Therefore, box 1.b) at the top portion of the Advisory Action form, PTOL-303 should have been checked, and box 1.a) at the top portion of the Advisory Action form, PTOL-303 was checked in error. MPEP 706.07(f)(I.).

Since 3 months from the date of the final rejection (e.g., October 10, 2006) is earlier than the mailing date of the Advisory Action (e.g., November 6, 2006), the shortened statutory period for reply in the present case expires on the mailing date of the Advisory Action (November 6, 2006). Therefore, any extension of time fee for responding to the Final Office Action should be calculated from the mailing date of the Advisory Action.

Applicants note that the last day of 2 months of the date of the Advisory Action (e.g., January 6, 2007) fell on a Saturday. In addition, since the present reply is filed on January 8,

2007, which is the next succeeding day following January 6, 2007 which is not a Saturday, Sunday, or a Federal holiday, pursuant to 37 CFR 1.7(a), the present reply is filed within 2 months of the mailing date of the Advisory Action. Therefore, Applicants respectfully request grant of the petition requesting a 2 month extension of time for reply submitted herewith.

Applicants also note that the present reply is filed within 6 months of the mailing date of the Final Office Action. Therefore, the present reply is filed before expiration of the statutory period. Accordingly, entrance of the present reply and further examination and consideration of pending claims 1-37 are respectfully requested.

#### **Section 102 Rejections**

Claims 1-3, 5-18, 20-29, 31-35, and 37 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0093648 to Nikoonahad et al. (hereinafter “Nikoonahad”). As will be set forth in more detail below, the § 102 rejections of claims 1-3, 5-18, 20-29, 31-35, and 37 are respectfully traversed.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987), MPEP § 2131. The cited art does not disclose all limitations of the currently pending claims, some distinctive limitations of which are set forth in more detail below.

**The cited art does not teach collecting light scattered from a specimen with a collection channel and detecting light collected by the collection channel with multiple detection channels.** Independent claim 1 recites, in part: “collecting light scattered from the specimen with a collection channel; detecting light collected by the collection channel with multiple detection channels.” Independent claims 14, 16, and 25 recite similar limitations.

For at least the reasons set forth in the Response filed in the present case by Applicants on March 13, 2006 (hereinafter “the prior response”) and the Response filed in the present case by Applicants on September 11, 2006, which are incorporated by reference as if fully set forth herein, Nikoonahad does not teach collecting light scattered from a specimen with a collection channel and detecting light collected by the collection channel with multiple detection channels, as recited in claims 1, 14, 16, and 25. The Advisory Action states:

With regards to collecting light scattered from a specimen with a collection channel and detecting light collected by the collection channel, the examiner directs applicant attention to paragraph 170, which discloses that the measurement device may include any number of optical components (not shown) (i.e. mirrors, focusing lenses, reflectors...etc), thus disclosing a collection channel (Figure 4). (Advisory Action -- page 2).

Although Nikoonahad discloses in paragraph 170 that the measurement device may include optical components such as lenses that may be coupled to a detection system, paragraph 170 of Nikoonahad does not disclose that such an optical component is coupled to multiple detection channels of a detection system. Therefore, paragraph 170 of Nikoonahad does not teach collecting light scattered from a specimen with a collection channel and detecting light collected by the collection channel with multiple detection channels, as recited in claims 1, 14, 16, and 25. In addition, Fig. 4 of Nikoonahad shows optical component 52 coupled to detector 46. However, Fig. 4 of Nikoonahad does not show optical component 52 coupled to multiple detection channels of a detection system. Therefore, Fig. 4 of Nikoonahad does not teach collecting light scattered from a specimen with a collection channel and detecting light collected by the collection channel with multiple detection channels, as recited in claims 1, 14, 16, and 25.

The Advisory Action also states that “Paragraph 173 discloses the measurement device collecting scattered light.” (Advisory Action -- page 2). Nikoonahad states that “the detector may be configured to detect different types of energy propagating from the surface of specimen 40 such as specularly reflected light and scattered light.” (Nikoonahad -- paragraph 0173). Although paragraph 173 of Nikoonahad discloses detecting scattered light, paragraph 173 of Nikoonahad does not disclose detecting light collected by a collection channel with multiple

detection channels. Therefore, paragraph 173 of Nikoonahad does not teach collecting light scattered from a specimen with a collection channel and detecting light collected by the collection channel with multiple detection channels, as recited in claims 1, 14, 16, and 25.

The Advisory Action further states:

With regards to multiple detection channels, the examiner directs applicants' attention to figure 9 and paragraph 184, which discloses that each measurement devices 70 (i.e. the measurement device discussed above) may include multiple detectors. Note, since the measurement device 70 includes multiple detectors, the measurement device 70 inherently comprises multiple detection channels. (Advisory Action -- page 2).

Nikoonahad teaches that system 70 includes multiple measurement devices. However, Nikoonahad does not teach that any of the measurement devices of system 70 includes multiple detection channels configured to detect light collected by a collection channel. In addition, although each measurement device may include a detection channel, and therefore system 70 may include the detection channel of each measurement device, Nikoonahad does not teach that any two or more of the detection channels included in any of the measurement devices are configured to detect light collected by a collection channel. Therefore, Nikoonahad does not teach that multiple detection channels included in system 70 are configured to detect light collected by a collection channel. Consequently, Fig. 9 and paragraph 184 of Nikoonahad do not teach collecting light scattered from a specimen with a collection channel and detecting light collected by the collection channel with multiple detection channels, as recited in claims 1, 14, 16, and 25.

For at least the reasons set forth above, Nikoonahad does not teach all limitations of claims 1, 14, 16, and 25. Therefore, claims 1, 14, 16, and 25, as well as claims dependent therefrom, are not anticipated by the cited art. Accordingly, removal of the § 102 rejections of claims 1-3, 5-18, 20-29, 31-35, and 37 is respectfully requested.

**Section 103(a) Rejections**

Claims 4, 19, and 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Nikoonahad. As will be set forth in more detail below, the § 103 rejections of claims 4, 19, and 30 are respectfully traversed.

To establish *prima facie* obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974), MPEP 2143.03. The cited art does not teach or suggest all limitations of the currently pending claims, some distinctive limitations of which are set forth in more detail below.

**The cited art does not teach, suggest, or provide motivation for collecting light scattered from a specimen with a collection channel and detecting light collected by the collection channel with multiple detection channels, as recited in claims 1, 16, and 25.** For at least the reasons set forth above, Nikoonahad does not teach all limitations of claims 1, 16, and 25. In addition, for at least the reasons set forth in the prior response, Nikoonahad does not suggest or provide motivation for collecting light scattered from a specimen with a collection channel and detecting light collected by the collection channel with multiple detection channels, as recited in claims 1, 16, and 25. Therefore, Nikoonahad does not teach, suggest, or provide motivation for all limitations of claims 1, 16, and 25.

For at least the reasons stated above, claims 1, 16, and 25, as well as claims 4, 19, and 30 dependent therefrom, are patentably distinct over the cited art. Accordingly, removal of the § 103 rejections of claims 4, 19, and 30 is respectfully requested.

**CONCLUSION**

This response constitutes a complete response to all issues raised in the Final Office Action mailed July 10, 2006. In view of the remarks presented herein, Applicants assert that

pending claims 1-37 are in condition for allowance. If the Examiner has any questions, comments, or suggestions, the undersigned earnestly requests a telephone conference.

The Commissioner is authorized to charge any fees which may be required or credit any overpayment to deposit account number 02-0393.

Respectfully submitted,

Dated: January 8, 2007

By: Ann Marie Mewherter

Ann Marie Mewherter  
Registration No. 50,484  
BAKER & MCKENZIE LLP  
1114 Avenue of the Americas  
New York, New York 10036  
Telephone: (212) 626-4100  
Facsimile: (212) 310-1600